California Credit Union League

Serving Credit Unions in California and Nevada

May 3, 2007

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Proposed Statement on Subprime Mortgage Lending

Dear Ms. Rupp:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on the Proposed Statement on Subprime Mortgage Lending (Statement) issued by the NCUA and other banking agencies (Agencies). The California and Nevada Credit Union Leagues (the League) are the largest state trade associations for credit unions in the United States, representing the interests of more than 500 credit unions and their 9 million members.

The League shares the Agencies' concerns that subprime borrowers may not fully understand the risks and consequences of obtaining certain adjustable-rate mortgage (ARM) products. The recent rise in delinquencies and foreclosures in the subprime mortgage lending market, as well as the collapse of several subprime lenders, has served to highlight the risky underwriting practices and weak regulatory oversight found in some sectors of the market. While we fully support the Agencies' efforts to address these issues, we are concerned that the proposed Statement 1) may be overly broad; 2) does not apply to the non-bank lenders at the core of the problem; and 3) if not revised, or applied narrowly, may have unintended—and limiting—consequences on credit unions and other lenders attempting to serve the underserved. We would like to address these concerns, followed by our recommendations.

Our Concerns

First, the League believes that the proposed Statement has the effect of painting all subprime mortgage lending as problematic. Subprime lending provides consumers with less-than-sterling credit histories with access to credit that they would not otherwise have. If it is appropriately underwritten, priced, and administered, subprime lending can serve an important need in the market, especially in low-income and underserved communities. Throughout their history, credit unions have demonstrated an outstanding record of providing their members and communities with fair and sound alternative products, including subprime products. An excellent example is the Credit Union National Association (CUNA) Home Loan Payment Relief (HLPR) loan program.

The current subprime mortgage crisis was primarily brought about through predatory practices in the areas of advertising, underwriting, and disclosing subprime ARM products. Therefore, we believe the Agencies' focus should be narrowly tailored towards those practices (which, as we will later note, are not practiced by credit unions). Accordingly, we suggest that the guidance contained in the Statement should be in a scaled-down form of a Risk Alert which only addresses a few, specific abusive or predatory subprime ARM lending practices. This would make it more apparent that the Agencies' concern is not the subprime lending market as a whole.

Second, we are concerned that since the Statement does not apply to the non-bank lenders and mortgage brokers at the core of the subprime problem, it will do little to curb predatory abuses in the market. Credit unions, and many banks, do not engage in risky underwriting practices such as allowing first-time homebuyers to state, rather than prove, their income. To achieve any meaningful reform, non-bank lenders and brokers should be placed under the rubric of federal regulation. We believe that the recent legislation introduced in Congress that addresses federal regulation of mortgage brokers is the proper way to proceed. The proposed Statement, while well-intentioned, largely appears to be a solution in search of a problem.

Finally, we fear that the proposed Statement, if not revised, or applied narrowly, may have unintended—and limiting—consequences. In particular, we feel that the qualification standards under the proposal are likely to result in fewer borrowers qualifying for the credit that they need to provide a better economic future for themselves and their families. We respectfully suggest that—regardless of whether the Statement is issued as a Risk Alert, or left as a Statement and narrowly tailored towards predatory subprime ARM lending practices—the guidelines not be applied beyond the subprime ARM market.

Recommendations

As already noted, we believe the guidance contained in the Statement should be in a scaled-down form of a Risk Alert which only addresses a few, specific abusive or predatory subprime ARM lending practices. As the Agencies note in the proposed Statement, many of the concerns are already addressed in existing interagency guidance. We feel that additional, similar guidance will do little to curb the current market abuses, and would have the effect of limiting the availability of credit for the underserved. Our recommendations for the abuses that are suitable to be addressed in the form of a Risk Alert are:

- Lenders should not qualify borrowers at an initial, teaser rate, but should underwrite at some higher level than the initial rate, preferably the fully indexed rate.
- Lenders should obtain adequate proof of income, and should not rely on a borrower's stated income.
- Prepayment penalties should be limited to a period not to exceed the initial fixed rate period.
- Lenders should provide conspicuous disclosures regarding the borrower's responsibility for taxes and insurance.

In conclusion, we support the Agencies' efforts to highlight and address predatory subprime ARM lending. While credit unions are not engaged in these lending practices, we believe many consumers could be helped by limiting the most abusive practices. We thank the Agencies for the opportunity to comment on and suggest revisions to those efforts.

Sincerely,

Bill Cheney
President/CEO
California and Nevada Credit Union Leagues